

SECOND AMENDMENT TO AGREEMENT

THIS SECOND AMENDMENT TO AGREEMENT ("Amendment") made and entered into as of this ____ day of _____, 2017 amends the Agreement heretofore entered into and between the CITY OF FRESNO, a municipal corporation ("CITY"), and Blair, Church & Flynn Consulting Engineers, a California corporation ("CONSULTANT"). CITY and CONSULTANT are collectively referred to as Parties.

RECITALS

WHEREAS, the CITY and CONSULTANT entered into an agreement, dated November 21, 2013, for professional engineering services for the sewer rehabilitation/replacement in Glenn, N Street, Tuolumne, Van Ness, Merced, and Thorne Avenues, ("Agreement"); and

WHEREAS, the CITY and CONSULTANT entered into a first amendment on October 13, 2015, to increase CONSULTANTS compensation by \$36,900 for additional services related to increased design costs due to splitting the original project into two projects; and

WHEREAS, the CITY desires to add construction services during sewer rehabilitation/replacement in Glenn, N Street, Tuolumne, Van Ness, Merced, and Thorne Avenues; and

WHEREAS, with entry into this Amendment, CONSULTANT agrees that CONSULTANT has no claim, demand, or dispute against CITY under the Agreement; and

WHEREAS, due to the need for continuing services, the Parties desire to increase the compensation by \$37,756 to complete the original and amended scope of services.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, wherein recitals are contractual in nature, the mutual promises herein contained, and for other good and valuable consideration thereby acknowledge the Parties agree that the aforesaid Agreement be amended as follows:

1. CONSULTANT shall provide additional services as described in **Attachment A**, attached hereto and incorporated herein by reference.
2. CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered pursuant to the Agreement and the Amendment shall be a total fee of \$256,856. Such total fee includes all expenses incurred by CONSULTANT in performance of such services. Statements may be rendered monthly and shall be payable in the normal course of CITY business. Such statements shall be for an amount

no greater than that attributable to the Task upon which CONSULTANT is then engaged as provided in **Attachment A**.

3. In the event of any conflict between the body of this Amendment and any Exhibit or Attachment hereto, the terms and conditions of the body of this Amendment shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Amendment or the Agreement, shall be null and void.

4. Except as otherwise amended herein, the Agreement entered into by CITY and CONSULTANT, dated November 21, 2013, and the first amendment entered into by the City and the Consultant on October 13, 2015, remains in full force and effect.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a California municipal corporation

By: _____
Thomas C. Esqueda,
Director
Department of Public Utilities

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By:  8/15/17
Seth Mehrten Date
Deputy City Attorney

REVIEWED BY:

Michael Carbajal, Planning Manager
Department of Public Utilities

Addresses:

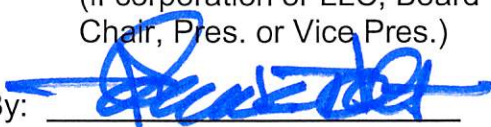
CITY:

City of Fresno
Attention: Michael Carbajal,
Planning Manager
Utilities Planning & Engineering
2101 G Street, Building A
Fresno, CA 93706-1620
Phone: (559) 621-1622

Blair Church & Flynn,
A California Corporation

By: 
Name: David A. Mowry

Title: President
(if corporation or LLC, Board
Chair, Pres. or Vice Pres.)

By: 
Name: Adam K. Holt

Title: CFO
(if corporation or LLC, CFO,
Treasurer, Secretary or Assistant
Secretary)

Any Applicable Professional License:
Number: C54,414
Name: David A. Mowry
Date of Issuance: July 1995

CONSULTANT:

Blair Church & Flynn
Attention: Karl Kienow,
Principal
461 Clovis Avenue
Clovis, CA 93612
Phone: (559) 326-1400
FAX: (559) 326-1400

Attachment A – Modifications to Scope of Services

ATTACHMENT A ADDITIONAL SCOPE OF WORK

The City of Fresno modified the original agreement to split the Merced Sewer Project into two projects. The two portions are: the project entitled Reconstruction of Sewer and Water Mains in Merced, Tuolumne, and Tulare Streets project, which is part of the Fulton Mall Reconstruction (FMR) project, and the project entitled Sewer Rehabilitation and Sewer Main Reconstruction in Merced Street. Additional engineering services outside the scope of work were encountered on the FMR portion of the project.

In addition to design services, the original agreement and first amendment include construction support services for both projects. To date, the design of the Sewer Rehabilitation and Sewer Main Reconstruction in Merced Street has been completed and is currently bidding. The FMR section of the project is the only portion of the project under construction, however, the original scope of work has substantially increased due to unknown utilities and multiple redesigns.

Although the preliminary design took multiple reviews, the source of the substantial scope increase was during construction. Multiple redesigns were required during construction (which is still ongoing). The demolition portion of the Fulton Mall revealed duct banks, vaults, and unidentified pipelines within the pipe influence area and alignment of the new sewer pipe. Several issues required significantly more effort than was included in the original scope; the items are listed and explained below.

- The existence and locations of underground PG&E vaults were provided by others, and incorporated into the design. However, the actual sizes were much larger than what the information provided showed. After excavation of the vaults it was discovered the PG&E vaults were much closer to the alignment than originally shown in the information provided. The original design required a casing to be jacked under the vault. PG&E would not initially allow the installation of the casing due to the clearance from the vault to the casing. As a result, several meetings, telephone conferences, email exchanges, and multiple redesigns of the steel casing were required before coming to a redesign all parties agreed upon.
- The AT&T facilities were marked by the utility owner which survey crews surveyed. The City survey crew identified the field markings that conflicted with the proposed sewer main. Blair Church & Flynn was directed to redesign the sewer main. The redesign was completed and approved. However, when AT&T was requested to mark their facilities again, the marks were substantially different than the original marks. BCF was directed to redesign the sewer main again. This redesign was then submitted, approved, and constructed.
- The tributary sewers in Congo and Federal Alleys were initially designed to connect directly to the proposed sewer main. During construction, the City survey crews surveyed several utilities that were unmarked and exposed by the Contractor. BCF was directed by the City to redesign the tributary sewers.

The sewers were redesigned, and the design submitted to the City. The Contractor then requested a field meet to discuss the tributary sewers with the City and BCF. At the meet a different design than what was already redesigned was agreed upon. The plans were then updated again to include the revised redesign.

The aforementioned items required a substantial amount of time and effort above and beyond the original scope of work. The additional effort required exhausted the construction services portion of the FMR project. The additional compensation does not include submittal reviews, requests for information (RFIs), clarifications, or other construction support that are required by the agreement and included in the original scope of services.